

JUN 24 2013

(1) Mark Jones,

Plaintiff,

V.

(1) WATCO Companies, LLC,

Defendant.

Case No **13 CV - 372 CVE - TLW**

(Formerly Tulsa County
Case No. CJ-2013-02407)

Leser

parties pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1441(b). This Court has jurisdiction over Plaintiff's state law claims in Counts I, II and III pursuant to 28 U.S.C. § 1441(c).

5. The aforementioned action was commenced by service of summons upon Watco on May 28, 2013, and this Notice of Removal is, therefore, timely filed under the provisions of 28 U.S.C. § 1446.

8. A copy of all process, pleadings, and other documents filed in the State Court Case is attached hereto as Exhibit 1.

9. A copy of the docket sheet in the State Court Case is attached hereto as Exhibit 2.

10. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to counsel for the Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the District Court of Tulsa County, State of Oklahoma.

Respectfully submitted,

Amy E. Sellars

RANDALL J. SNAPP, OBA # 11169

AMY E. SELLARS, OBA #30202

- Of the Firm -

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amy.sellars@crowedunlevy.com

ATTORNEY FOR DEFENDANT WATCO
COMPANIES

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was delivered to the Court Clerk of Tulsa County, Oklahoma, Tulsa County Courthouse, 500 S. Denver, Tulsa, Oklahoma 74103 and was mailed, postage prepaid, this 24th day of June, 2013 to the following attorney for Plaintiff:

Anthony Allen
Allen & Wisner
101 W. Broadway
Muskogee, OK 74401

ATTORNEY FOR PLAINTIFF

Amy E. Sellars
Amy E. Sellars



IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

DISTRICT COURT
FILED

MAY 17 2013

1. MARK JONES,

Plaintiff,

v.

1. WATCO COMPANIES, L.L.C.,

Defendant.

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

CJ-2013 02407
Case No.

ATTORNEY'S LIEN CLAIMED

PETITION

MARY F. FITZGERALD

Mark Jones, for his *Petition* against Watco Companies, L.L.C., states as follows:

PARTIES, JURISDICTION, AND VENUE

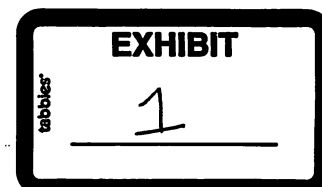
1. At all times relevant hereto, the plaintiff has resided in Tulsa County in the State of Oklahoma.

2. At all times relevant hereto, the defendant was a foreign entity doing business in Oklahoma.

3. Mr. Jones was an employee of the defendant from approximately July of 2003 until approximately October of 2011, when the defendant terminated Mr. Jones's employment. At the time Mr. Jones was hired, the defendant was a foreign for profit corporation incorporated in the State of Kansas. In December of 2010 it appears that the defendant converted to a Limited Liability Company.

4. At all times mentioned herein, the defendant was an employer within the meaning of Title VII of the Civil Rights Act of 1964 ("Civil Rights Act"), Title 42 U.S.C. § 2000e(b) and as the term is defined by the Equal Employment Opportunity Commission ("EEOC").

5. Mr. Jones worked for the defendant's railroad operations in multiple venues, including in Tulsa County.



CJ-2013 02407

6. Tulsa County is the proper venue for this action because this is the District in which the plaintiff resides and in which the defendant does business and in which a substantial part of the events or omissions giving rise to the claims occurred.

7. The plaintiff has been generally damaged in an amount within the jurisdictional limits of the Court.

8. Although this *Petition* is divided into sections, it is intended to be read as a whole, with each part incorporating all others.

STATEMENT OF FACTS RELEVANT TO ALL CLAIMS

9. Mr. Jones, a black man, was a loyal, dedicated employee of the defendant up to the day he was fired. He had been recognized for high performance and was promoted in March 2011 to site manager at the Holly refinery location in Tulsa, Oklahoma

10. In May of 2011, Mr. Jones was demoted to conductor and transferred to the Stroud, Oklahoma location without explanation. Mr. Jones was told by a departing member of management that race was an issue with his position and that another manager had said that she did not want "niggers in charge."

11. Mr. Jones had witnessed and reported a number of safety violations before being promoted to management, while a manager and following his term in management.

12. On or about October 28, 2011, Mr. Jones was fired for wearing shorts while in a company vehicle. Mr. Jones had not, however, committed this infraction, instead having voluntarily driven a co-worker to the job site in his personal vehicle while not on duty.

13. Mr. Jones told management of the shorts misunderstanding, as did the employee who benefited from the ride to work, but management did not reverse the decision or allow Mr. Jones any opportunity to further dispute the matter.

03-0013 02467

14. Mr. Jones had witnessed non-black employees violate company policy and even make serious safety errors that were known to management without being fired.

15. Shortly after his termination, Mr. Jones learned that Mr. Jones's former manager had said "one nigger down, one to go." There was only one other black employee similarly situated to Mr. Jones at that time and he was fired soon thereafter.

COUNT I: MENTAL AND EMOTIONAL DISTRESS

16. The defendant owed the plaintiff a duty of care during the plaintiff's employment period with the defendant, including the duty to avoid inflicting upon him emotional distress by the manner in which the defendant operated its business and in the manner of continuing or discontinuing the plaintiff's employment.

17. Throughout his employment with the defendant, the plaintiff was confronted with the defendant's improper business practices, including the violation of statutes.

18. As a result of the defendant's breach of its duty of care to the plaintiff, the plaintiff suffered irreparable injuries, including but not limited to loss of pay, benefits and other economic losses, emotional pain and suffering, mental anguish, humiliation, embarrassment, personal indignity and other intangible injuries for all of which he should be compensated.

19. The defendant's actions were reckless, entitling the plaintiff to punitive damages.

COUNT II: WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

20. The defendant wrongfully terminated the plaintiff's employment in violation of various public policies of the State of Oklahoma.

21. Among other things, the defendant discharged the plaintiff from his employment in retaliation for his complaints of workplace safety violations. Terminating employment for voicing concerns about workplace safety violates a clear mandate of Oklahoma public policy.

03-0012 02407

22. By the aforesaid acts and omissions of the defendant, the plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, in an amount to be proved at trial.

23. As a further direct and legal result of the acts and conduct of the defendant, the plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, and anxiety.

24. The defendant, by engaging in the aforementioned acts and in authorizing and ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with willful and conscious disregard of the rights and welfare of the plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be determined at trial.

COUNT III: BREACH OF IMPLIED CONTRACT

25. On or about July 3, 2003, the plaintiff and the defendant entered into an implied unilateral contract whereby the defendant's personnel manual and other mandatory employment documents acted as offers for a unilateral contract accepted by the plaintiff's action to continue working for the defendant.

26. The defendant breached the contract by terminating the plaintiff's employment in contravention of the implied unilateral contract the manner of operating the defendant's business and in the manner of continuing or discontinuing the plaintiff's employment.

27. The plaintiff has performed all conditions precedent to recover under the contract and has not excused the defendant's breach.

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28. As a result of the defendant's breach of the implied unilateral contract, the plaintiff has sustained damages including but not limited to the amount of lost earnings and employment benefits and the amount of damages for mental and emotional distress or anguish.

COUNT IV: VIOLATION OF THE CIVIL RIGHTS ACT

29. The defendant's actions described herein were intentional and demonstrate differing employment standards for similarly situated, non-minority employees and the plaintiff, who is a member of a protected class. Such actions and standards created a hostile work environment and were adverse to the plaintiff's employment situation and status.

30. The defendant's termination of the plaintiff was without sufficient justification and grossly disproportionate to any perceived misconduct. As such, the defendant's action was discriminatory as to the plaintiff. The defendant unfairly treated and ultimately terminated the plaintiff, at least in part because of his race.

31. Such adverse employment actions were in violation of the Civil Rights Act, 42 U.S.C. § 2000e-2.

32. As a result of Defendant's actions, the plaintiff has suffered irreparable injuries, including but not limited to loss of pay, benefits and other economic losses, emotional pain and suffering, mental anguish, humiliation, embarrassment, personal indignity and other intangible injuries for all of which he should be compensated.

PRAYER FOR RELIEF

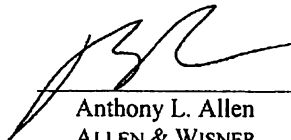
WHEREFORE, the plaintiff prays that this Court award:

- A. Judgment against the defendant for actual and punitive damages for the defendant's act of negligent infliction of emotional distress;

CJ-2013 02407

- B. Judgment against the defendant for actual and punitive damages for the defendant's act of retaliatory discharge in contravention of Oklahoma's public policy;
- C. Judgment against the defendant for actual and punitive damages for the defendant's breach of implied contract;
- D. Judgment against the defendant for violation of the Civil Rights Act;
- E. Judgment against the defendant for the costs of litigation, including a reasonable attorney's fee;
- F. Any and all other relief as this Court deems appropriate according to equity, justice and the evidence presented.

Respectfully submitted,



Anthony L. Allen OBA# 19738
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Muskogee, Oklahoma 74401
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Attorney for the Plaintiff



IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

Mark Jones,

Plaintiff,

v.

WATCO Companies, LLC,

Defendant.

Case No. CJ-2013-02407
Mary F. Fitzgerald

DISTRICT COURT
FILED

JUN 13 2013

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

ENTRY OF APPEARANCE

COMES NOW Randall J. Snapp and Amy E. Sellars and enter their appearances in the
above styled matter for Defendant WATCO Companies, LLC.

Respectfully submitted,

Amy E. Sellars

Randall J. Snapp, OBA #11169
Amy E. Sellars, OBA #30202

-Of the Firm-

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A Professional Corporation
500 Kennedy Building
321 South Boston Avenue
Tulsa, OK 74103-3313
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(918) 592-9801 (Facsimile)

ATTORNEYS FOR DEFENDANT
WATCO COMPANIES, LLC

2013 JUN 13 PM 3:51
SALLY HOWE SMITH
COURT CLERK

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this _____ day of June, 2013 to:

Anthony Lee Allen
101 W. Broadway
Muskogee, OK 74401

Amy E. Sellars
Amy E. Sellars

Respectfully submitted,

Amy E. Sellars

Randall J. Snapp, OBA #11169

Amy E. Sellars, OBA #30202

-Of the Firm-

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ATTORNEYS FOR DEFENDANT

WATCO COMPANIES, LLC

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this 13th day of June, 2013 to:

Anthony Lee Allen
101 W. Broadway
Muskogee, OK 74401

Amy E. Sellars

Amy E. Sellars



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IN THE DISTRICT COURT IN AND FOR TULSA COUNTY, OKLAHOMA

MARK JONES, Plaintiff, v. WATCO COMPANIES LLC, Defendant.	No. CJ-2013-2407 (Civil relief more than \$10,000: BREACH OF AGREEMENT - CONTRACT) Filed: 05/17/2013 Judge: Fitzgerald, Mary
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Parties

JONES, MARK , Plaintiff
WATCO COMPANIES LLC , Defendant

Attorneys

Attorney
Allen, Anthony Lee(Bar # 19738)
101 W BROADWAY
MUSKOGEE, OK 74401

Represented Parties
JONES, MARK

Events

Event	Party	Docket	Reporter
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Issues

For cases filed before 1/1/2000, ancillary issues may not appear except in the docket.

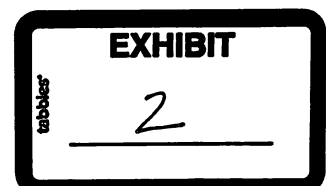
Issue # 1. Issue: BREACH OF AGREEMENT - CONTRACT (CONTRACT)
 Filed by: JONES, MARK
 Filed Date: 05/17/2013
Party Name: **Disposition Information:**

Defendant: WATCO COMPANIES Pending.
 LLC

Issue # 2. Issue: INTENTIONAL INFLICTION EMOTIONAL DISTRESS (EMOTION)
 Filed by: JONES, MARK
 Filed Date: 05/17/2013
Party Name: **Disposition Information:**

Defendant: WATCO COMPANIES Pending.
 LLC

Issue # 3. Issue: CRA VIOLATION (OTHER)
 Filed by: JONES, MARK



Filed Date: 05/17/2013


Party Name:**Disposition Information:****Defendant:** WATCO COMPANIES Pending.
LLC**Docket**

Date	Code	Count	Party	Serial #	Entry Date		
05-17-2013	TEXT	1		85491018	May 17 2013 11:27:53:643AM	-	\$ 0.00
	CIVIL RELIEF MORE THAN \$10,000 INITIAL FILING.						
05-17-2013	OTHER	-		85491020	May 17 2013 1:48:37:187PM	Realized	\$ 0.00
	BREACH AGREEMENT/ CONTRACT						
05-17-2013	DMFE	-		85491021	May 17 2013 11:27:53:703AM	Realized	\$ 2.00
	DISPUTE MEDIATION FEE(\$ 2.00)						
05-17-2013	PFE1	-		85491022	May 17 2013 1:41:15:993PM	Realized	\$ 163.00
	PETITION(\$ 163.00)						
	 Document Available (#1021822548)						
05-17-2013	PFE7	-		85491023	May 17 2013 11:27:53:703AM	Realized	\$ 6.00
	LAW LIBRARY FEE(\$ 6.00)						
05-17-2013	OCISR	-		85491024	May 17 2013 11:27:53:703AM	Realized	\$ 25.00
	OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUND(\$ 25.00)						
05-17-2013	CCADMIN02	-		85491025	May 17 2013 11:27:53:703AM	Realized	\$ 0.20
	COURT CLERK ADMINISTRATIVE FEE ON \$2 COLLECTIONS(\$ 0.20)						
05-17-2013	OCJC	-		85491026	May 17 2013 11:27:53:703AM	Realized	\$ 2.00
	OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND(\$ 2.00)						
05-17-2013	OCASA	-		85491027	May 17 2013 11:27:53:703AM	Realized	\$ 5.00
	OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES(\$ 5.00)						
05-17-2013	CCADMIN04	-		85491028	May 17 2013 11:27:53:703AM	Realized	\$ 0.50
	COURT CLERK ADMINISTRATIVE FEE ON COLLECTIONS(\$ 0.50)						
05-17-2013	LTF	-		85491029	May 17 2013 11:27:53:843AM	Realized	\$ 10.00
	LENGTHY TRIAL FUND(\$ 10.00)						
05-17-2013	SMF	-		85491030	May 17 2013 11:27:53:893AM	Realized	\$ 5.00
	SUMMONS FEE (CLERKS FEE)(\$ 5.00)						

05-17-2013	SMIP	-	85491031	May 17 2013 11:27:53:933AM	Realized	\$ 0.00
SUMMONS ISSUED - PRIVATE PROCESS SERVER						
05-17-2013	TEXT	-	85491019	May 17 2013 11:27:53:663AM	-	\$ 0.00
OCIS HAS AUTOMATICALLY ASSIGNED JUDGE FITZGERALD, MARY TO THIS CASE.						
05-17-2013	ADJUST	-	85491072	May 17 2013 11:29:42:260AM	Realized	\$ 5.47
ADJUSTING ENTRY: MONIES DUE TO AC09-CARD ALLOCATION(\$ 5.47)						
05-17-2013	ACCOUNT	-	85491073	May 17 2013 11:29:42:260AM	-	\$ 0.00
ADJUSTING ENTRY: MONIES DUE TO THE FOLLOWING AGENCIES REDUCED BY THE FOLLOWING AMOUNTS: CJ-2013-2407: AC81 LENGTHY TRIAL FUND -\$0.25 CJ-2013-2407: AC79 OCIS REVOLVING FUND -\$0.63 CJ-2013-2407: AC64 DISPUTE MEDIATION FEES -\$0.05 CJ-2013-2407: AC59 OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND - \$0.05 CJ-2013-2407: AC58 OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES -\$0.13 CJ-2013-2407: AC31 COURT CLERK REVOLVING FUND -\$0.02 CJ-2013-2407: AC23 LAW LIBRARY FEE -\$0.15 CJ-2013-2407: AC01 CLERK FEES -\$4.19						
05-17-2013	ACCOUNT	-	85491074	May 17 2013 11:29:42:470AM	-	\$ 0.00
RECEIPT # 2013-2602723 ON 05/17/2013. PAYOR:ANTHONY ALLEN TOTAL AMOUNT PAID: \$218.70. LINE ITEMS: CJ-2013-2407: \$163.81 ON AC01 CLERK FEES. CJ-2013-2407: \$5.47 ON AC09 CARD ALLOCATIONS. CJ-2013-2407: \$5.85 ON AC23 LAW LIBRARY FEE. CJ-2013-2407: \$0.68 ON AC31 COURT CLERK REVOLVING FUND. CJ-2013-2407: \$4.87 ON AC58 OKLAHOMA COURT APPOINTED SPECIAL ADVOCATES. CJ-2013-2407: \$1.95 ON AC59 OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND. CJ-2013-2407: \$1.95 ON AC64 DISPUTE MEDIATION FEES. CJ-2013-2407: \$24.37 ON AC79 OCIS REVOLVING FUND. CJ-2013-2407: \$9.75 ON AC81 LENGTHY TRIAL FUND.						
06-13-2013	MO	-	WATCO COMPANIES LLC 85761046	Jun 13 2013 4:19:37:260PM	-	\$ 0.00
UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO PETITION / CERTIFICATE OF SERVICE  <u>Document Available (#1022048261)</u>						
06-13-2013	EAA	-	WATCO COMPANIES LLC 85761071	Jun 13 2013 4:20:39:810PM	-	\$ 0.00
ENTRY OF APPEARANCE/ RANDALL J SNAPP AND AMY E SELLARS ENTERING AS COUNSEL /W-CS / CERTIFICATE OF SERVICE  <u>Document Available (#1022048184)</u>						
06-18-2013	CTFREE	-	85808877	Jun 19 2013 9:05:22:570AM	-	\$ 0.00
FITZGERALD, MARY: ORDER ENTERED/ DFS MOTION FOR EXTENSION OF TIME TO RESPOND TO PETITION IS GRANTED. DF HAS UNTIL 7-2-2013 TO RESPOND. NOTICES SENT TO AMY SELLERS, ANTHONY ALLEN						

06-18-2013 O	-	85811877	Jun 19 2013 10:22:05:140AM	-	\$ 0.00
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ORDER AFD OF MAILING

 [Document Available \(#1022171503\)](#)

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